

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

|  |   |                                   |
|--|---|-----------------------------------|
| In re Application of:                  | ) |                                   |
|  | ) |                                   |
| Guheen, et al.                         | ) |                                   |
|  | ) | Group Art Unit: 3639              |
| Serial No.: 09/321,360                 | ) |                                   |
|  | ) | Examiner: Robinson Boyce, Akiba K |
| Filed: May 27, 1999                    | ) |                                   |
|  | ) | Attorney Docket No: 005222.00259  |
| For: Phase Delivery of Components of a | ) |                                   |
| System Required for                    | ) | Confirmation No.: 6371            |
| Implementation of Technology           | ) |                                   |

**BRIEF ON APPEAL**

Mail Stop: Appeal Brief-Patents  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 41.37, Appellants submit this Appeal Brief to the Board of Patent Appeals and Interferences in response to the Final Office Action mailed on September 21, 2006. A Notice of Appeal and Pre-Appeal Brief was timely filed on January 22, 2007. Please charge any necessary fees in connection with this Appeal Brief to Deposit Account No. 19-0733.

**I. Real Parties in Interest**

The real party in interest is ACCENTURE LLP.

## **II. Related Appeals and Interferences**

Appellants are unaware of any appeals or interferences related to the subject appeal.

**III. Status of the Claims**

Claims 1-19 are pending and are found in the Appendix. Claims 1-19 stand rejected. No claims have been allowed.

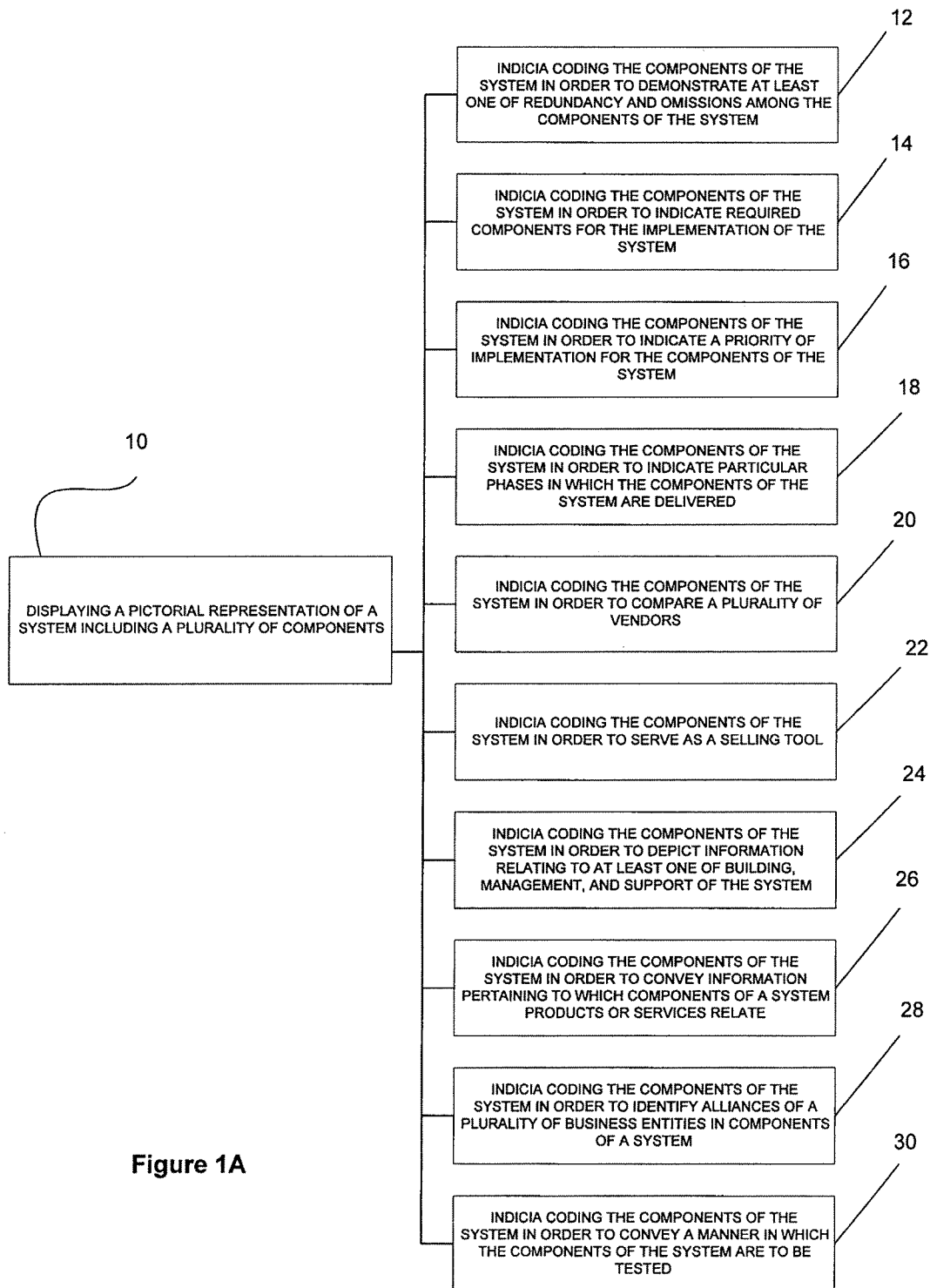
**IV. Status of Amendments**

No amendment after final rejection has been filed.

## **V. Summary of the Claimed Subject Matter**

The present invention is directed to methods, computer readable media, and apparatuses for displaying phases in which components are delivered. The components may be contained in a system that provides a web architecture framework. The following description summarizes the invention and is subsequently followed by the specific descriptions of the independent claims 1, 7, and 13 (labeled as “**Description of Independent Claims**”).

As shown in Figure 1A, the presentation method of the present invention first includes displaying a pictorial representation of a system, i.e., web architecture framework, including a plurality of components. (Page 14, second paragraph.) In operation 10, a pictorial representation of a system with a plurality of components is displayed. In operations 12-30, the pictorial representation is indicia coded in order to demonstrate any one or more of various aspects of the system. Such indicia coding may take the form of color coding, texture coding, shading coding, or any other coding which is capable of conveying the desired information.

**Figure 1A**

The pictorial representation and indicia coding may be displayed in any manner that conveys the desired information. (Page 14, third paragraph.) For example, the pictorial representation may take the form of a transparency with an outline of the various components of the system. Further, the indicia coding may take the form of an overlay removably situated on the transparency such that, together, the transparency and the overlay depict the indicia coding and the pictorial representation in combination. In an embodiment of the invention, the transparency and overlay may comprise a single unitary display device. Further, a display device may take the form of a slide, full size transparency, or any other device that conveys the desired information. Also, the pictorial representation and indicia coding may be displayed via a computer with any desired presentation software.

Figure 1L shows an example of the aforementioned pictorial representation, or "base chart". (Page 15, first paragraph.)



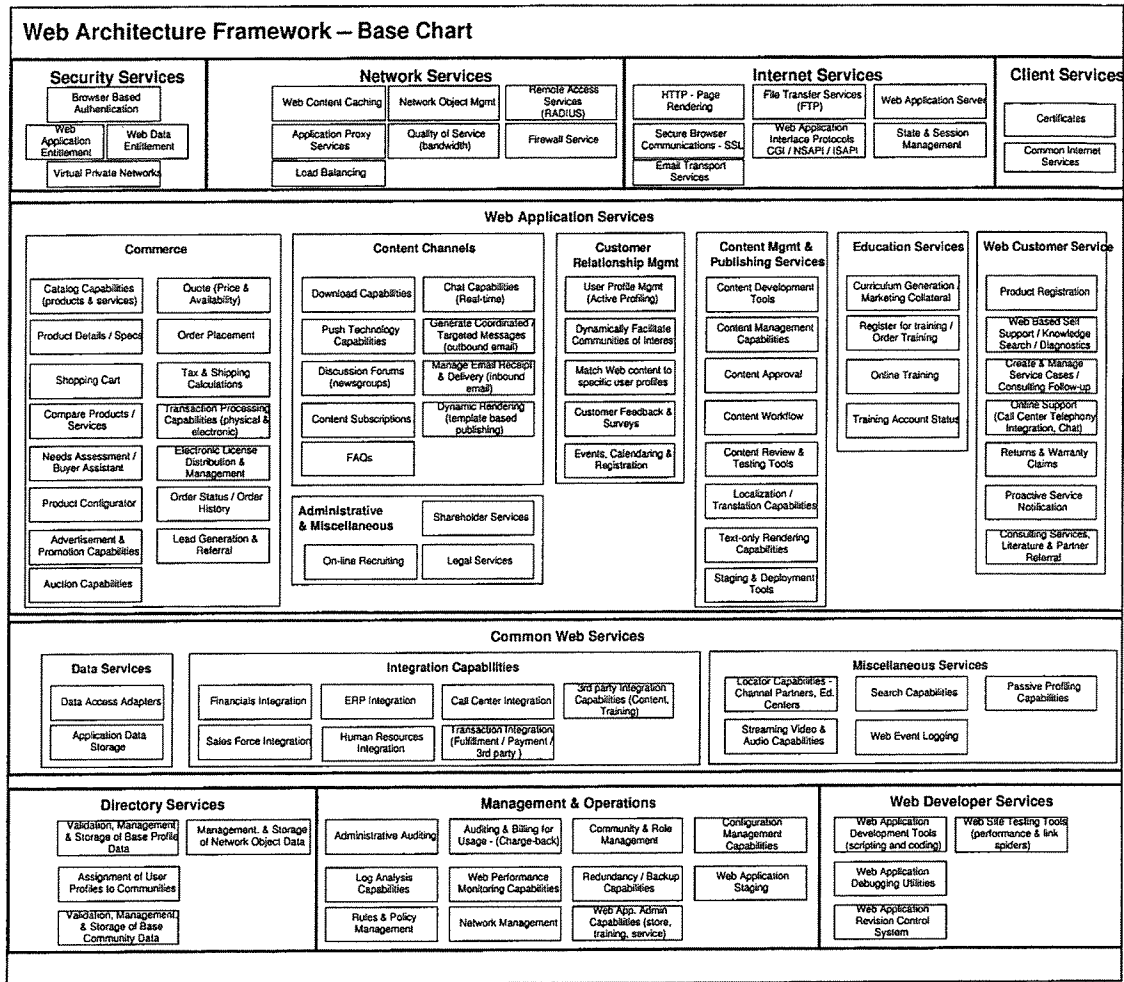
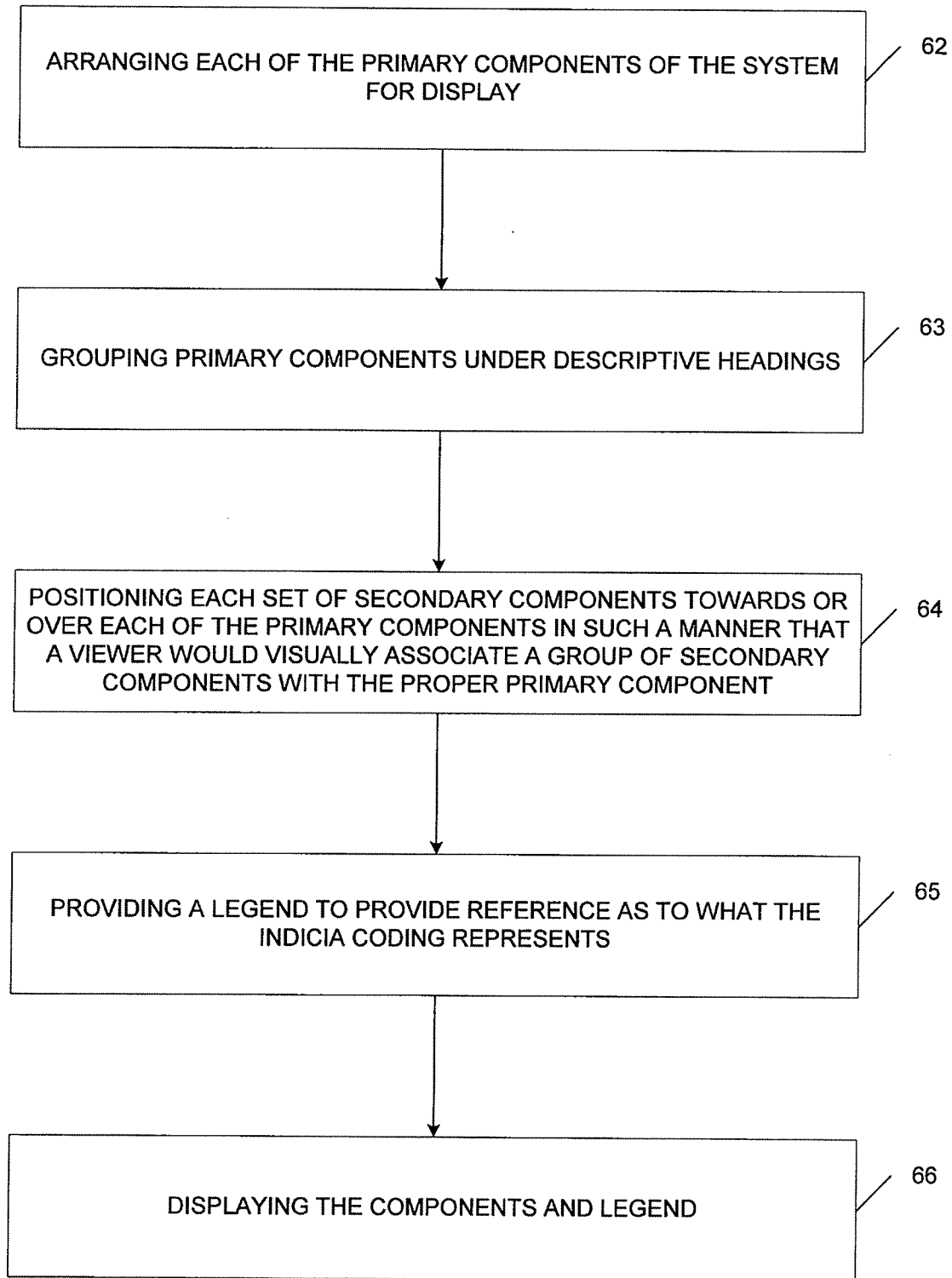


Figure 1L

In the example shown in Figure 1L, the system includes a web architecture framework. (Page 15, first paragraph.) The pictorial representation depicts all of the application capabilities and associated infrastructure services required to establish a comprehensive web presence. A plurality of components is shown that are necessary to afford various activities over the Internet. Such components may include: an electronic commerce component, a content channels component, an administrative component, a customer relationship management component, a content management and publishing services component, an education related services

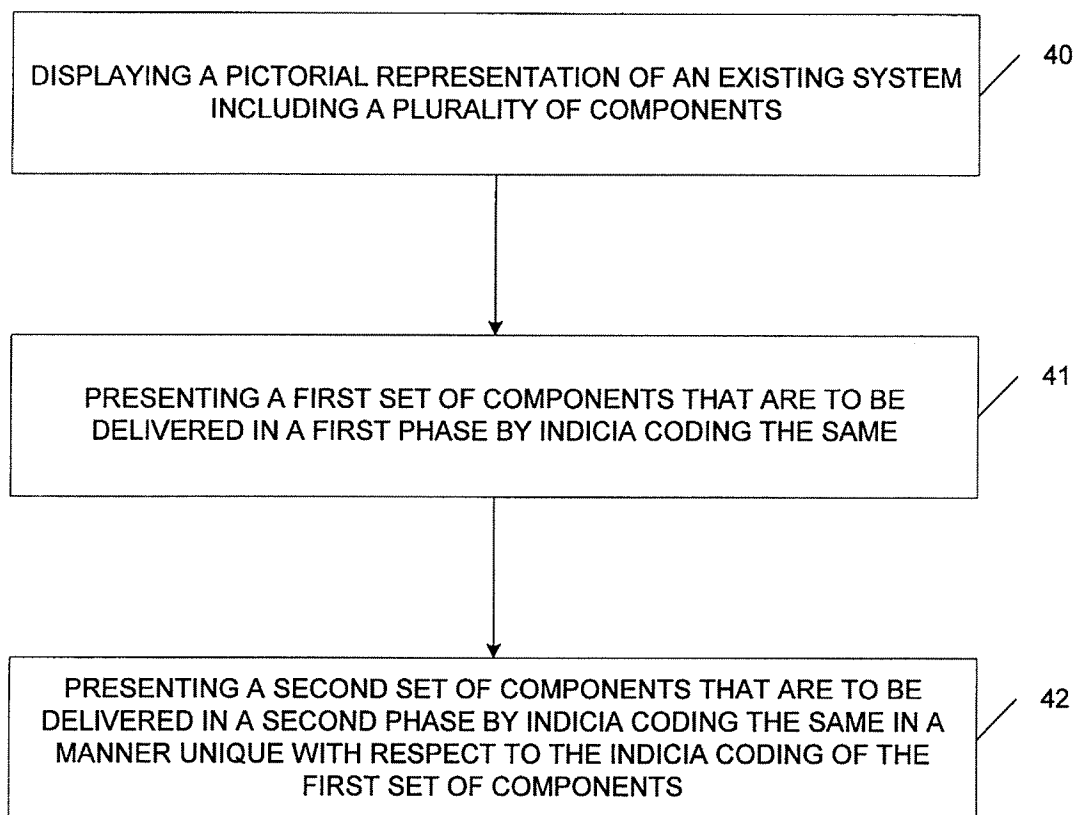
component, and a web customer service component. The pictorial representation may be used alone in order to convey various services which would be provided in a business offering.

To create such a pictorial representation, referring to Figure 1L-1, each of the primary components of the system, such as the components listed above, are arranged for display in operation 62. (Page 15, second paragraph.) Examples of primary components shown in Figure 1L-1 include "Security Services", "Commerce", and "Data Services". Preferably, the primary components are grouped under descriptive headings, as in operation 63. Examples of such headings shown in 1L are "Web Application Services" and Common Web Services". Each of the primary components is formed of a group of secondary components. In operation 64, each set of secondary components is positioned towards or over each of the primary components in such a manner that a viewer would visually associate a group of secondary components with the proper primary component. A legend may be provided in operation 65 to provide reference as to what the indicia coding represents. Finally, in operation 66, the components and legend are displayed.



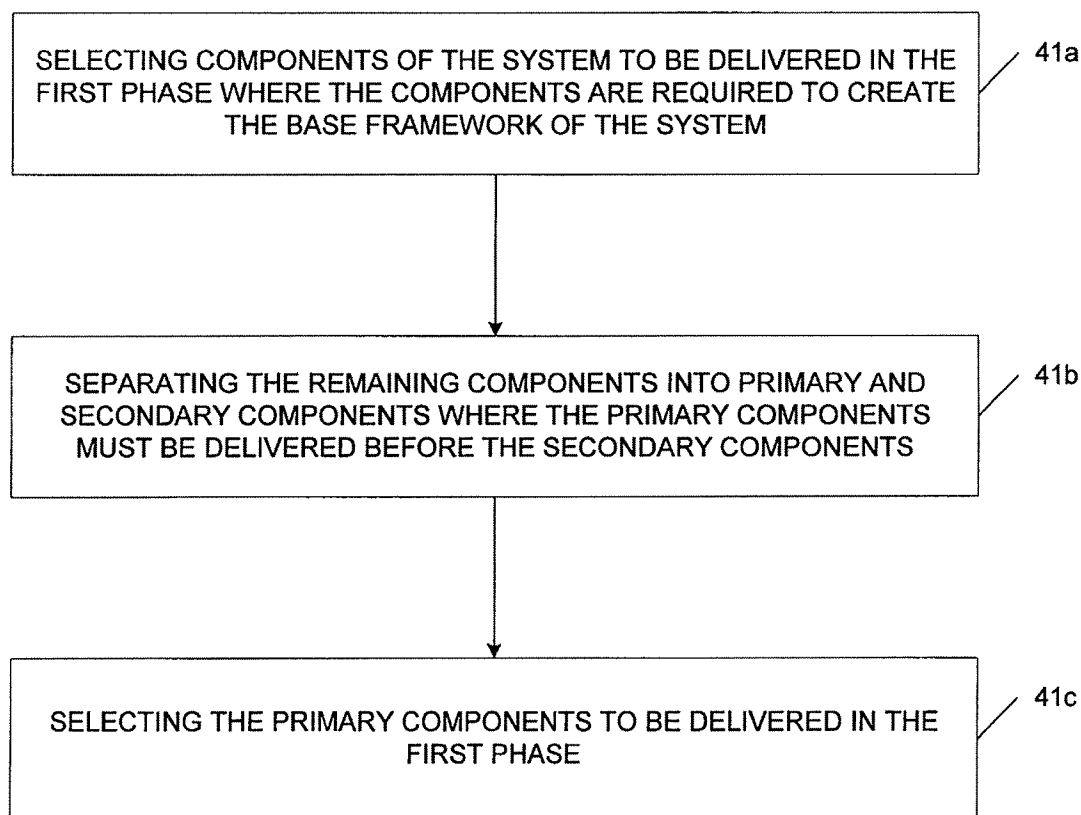
**Figure 1L-1**

Further, indicia coding may indicate particular phases in which components of the system are delivered, and more particularly the order of delivery of various components of the web architecture framework. (Page 18, third paragraph.) In operation 18, as shown in Figure 1A, the components are indicia coded in order to indicate the particular phases in which the components of the system are delivered. Referring to Figure 1E, operation 40 displays a pictorial representation of an existing system including a plurality of components.

**Figure 1E**

18

In operation 41, a first set of components that are to be delivered in a first phase are selected and presented by indicia coding the same. (Page 19, first paragraph.) To perform operation 41, for example, referring to Figure 1E-1, components of the system that are required to create the base framework of the system are selected to be delivered in the first phase in operation 41a.

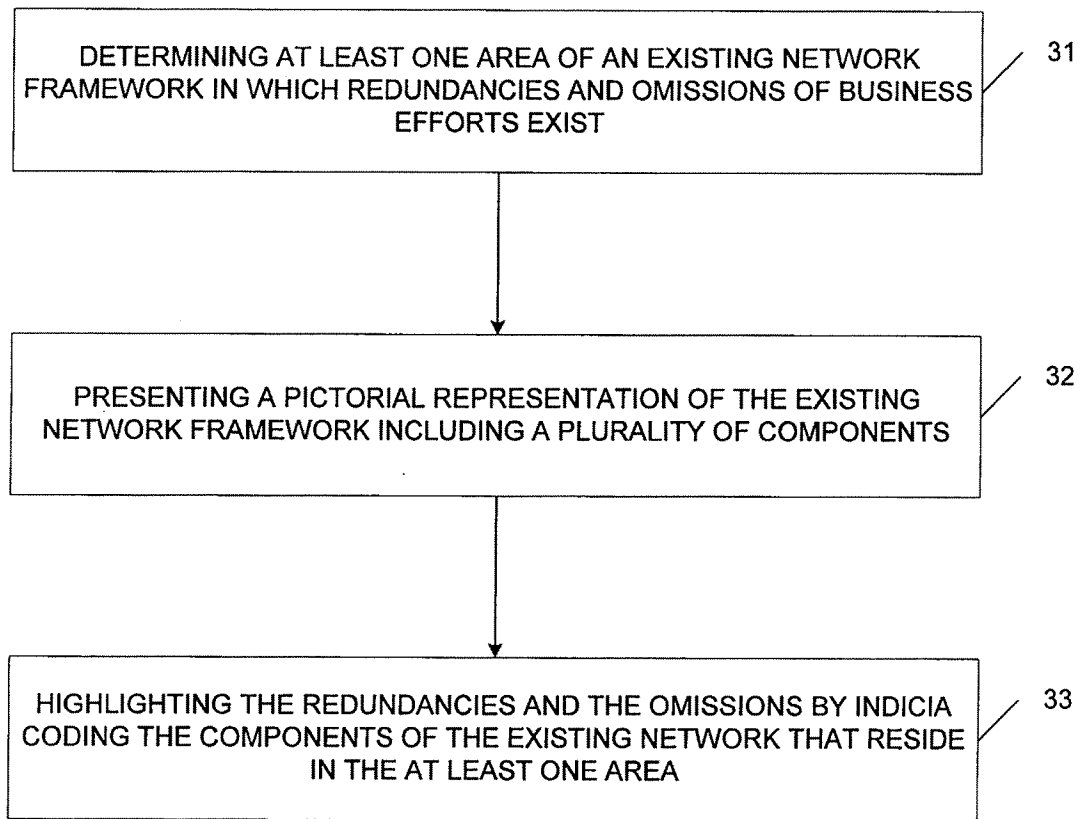
**Figure 1E-1**

41

Further, in operation 41b, the remaining components are separated into primary and secondary components, in which the primary components must be installed before the secondary components in order for the secondary components to function properly. (Page 19, first paragraph.) The primary components may also be selected to be delivered in the first phase in operation 41c. Finally, in operation 42, a second set of components that are to be delivered in a

second phase are selected and presented by indicia coding the same in a manner unique with respect to the indicia coding of the first set of components. The second set of components may include some or all of the secondary components found in operation 41b. As an example, an exemplary first set of components is identified in a legend under "First Delivery". The second and third sets of components are identified in the legend under "Second Delivery" and "Third Delivery".

With reference to Figure 1A, operation 12 includes indicia coding in order to provide a diagnostic presentation of a past, current, and/or desired web presence. By this method, redundant efforts and omissions among the components of a particular implementation of a web architecture framework may be effectively conveyed. (Page 15, fourth paragraph.) Components of the web architecture framework without shading may indicate that such components are omitted in the framework, i.e., not provided by services of any vendor. (Page 16, first paragraph.) On the other hand, components of the web architecture framework with multiple types of shading may indicate redundancy in such components, i.e., provided by services of more than one vendor. To accomplish this, referring to Figure 1B, operation 31 determines at least one area of an existing network framework in which redundancies and omissions of business efforts exist.

**Figure 1B**

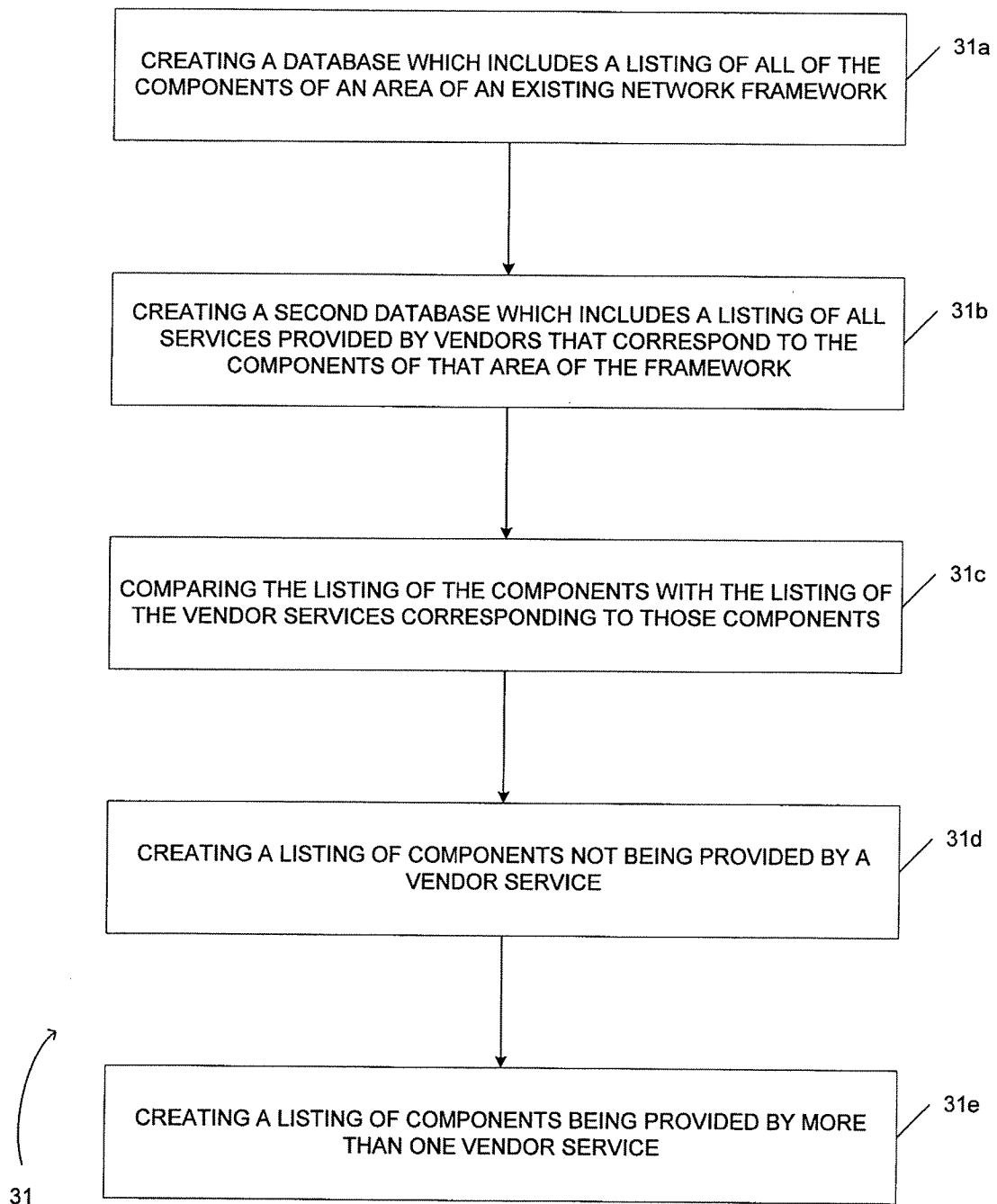
12

Operation 32 presents a pictorial representation of the existing network framework including a plurality of components, such as the pictorial representation shown in Figure 1L. Then, in operation 33, the redundancies and omissions are highlighted by indicia coding the components of the existing network that reside in the area.

One exemplary method determines whether an area of an existing network framework has redundant or omitted components. (Page 16, second paragraph.) A database, which includes



a listing of all of the components of the area (corresponding to operation 31 as shown in Figure 1B-1), may be created.



**Figure 1B-1**

Also, listings of all services provided by vendors that correspond to the components of that area of the framework are created in the same or a second database in operation 31b. (Page 16, second paragraph.) Then, the listing of the components is compared with the listing of the vendor services corresponding to those components in operation 31c to determine whether and how many vendors supply services to each particular component. A third listing is created in operation 31d. The third listing lists components not being provided by a vendor service. These components have been omitted by business efforts of the vendors. A fourth listing is created in operation 31e. The fourth listing includes all of the components that are provided by services of more than one vendor. These components are being served by redundant business efforts. Alternatively, the fourth listing could include components that are provided by more than one service of the same vendor. A pictorial representation, such as is shown in Figure 1L, is prepared, as described above in operation 32 as shown in Figure 1B. Each vendor is assigned a unique indicia coding. Each of the components provided by a vendor service is indicia coded to indicate which vendor or vendors provide the services, as performed in operation 33. Any component omitted in the framework has no indicia coding, while any components having redundant business efforts have multiple types of indicia coding. (Page 17, first paragraph.)

As shown in Figure 1C (operation 35) and Figure 1C-1, a database may be created to include a listing all of the components of the system. (Page 17, third paragraph.) Also, a listing of all necessary components is created (either in the same database or a second database). Then the listing of the entire set of components is compared with the required components. Any components that match are then indicia coded.

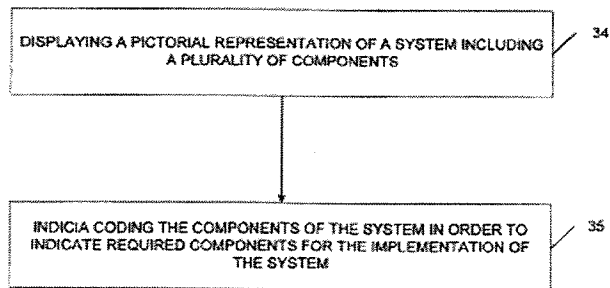


Figure 1C

14

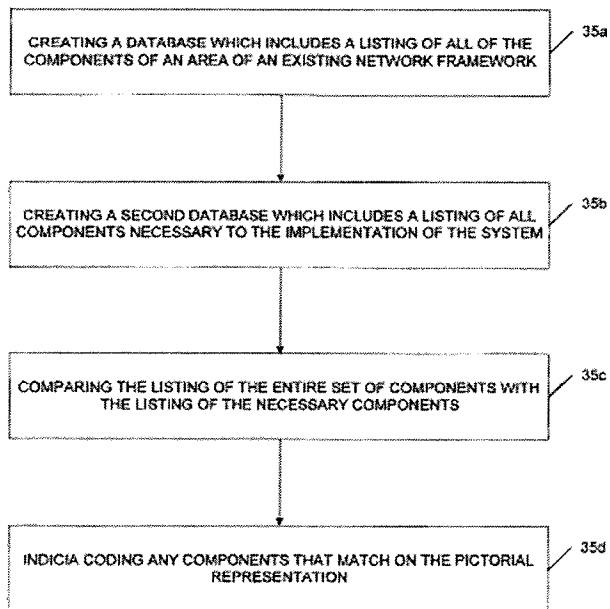
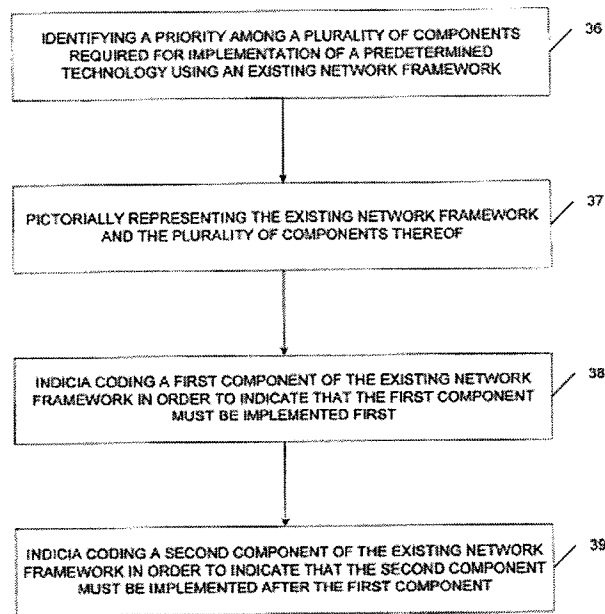


Figure 1C-1

35

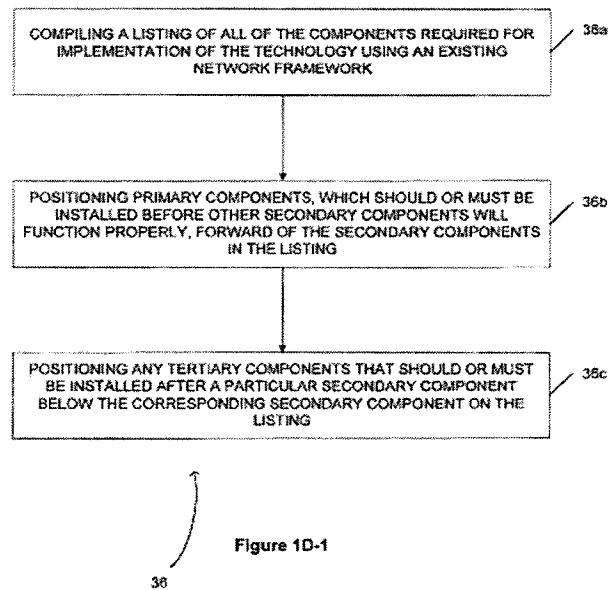
As shown in Figure 1D (operation 36), a priority is identified among the required components for implementation. (Page 17, fourth paragraph.) As shown in Figure 1D-1

(operation 36a), a listing of all required components are compiled and primary components are positioned before secondary components for proper functioning (operation 36b). As shown in Figure 1D, a pictorial representation of the existing network is generated in operation 37. (Page 18, second paragraph.) In operations 38 and 39, components are indicia coded to indicate that a first component (a primary component) must be implemented before a second component (a secondary component).



16

Figure 1D



### Description of Independent Claims

Independent claim 1 is directed to a method for displaying phases on a computer system, where components for providing a web architecture framework are delivered. (Figure 1A; Page 14, second paragraph.) A pictorial representation showing components of the existing system is displayed. (Page 18, second paragraph; Figure 1D operation 37.) From the components, a first component group with additional components, which are required for implementation, and a second component group with optional components are identified. (Pages 16-17.) An ordered listing of additional components is then compiled in an order for implementation in the existing system. (Page 17, second and third paragraphs; Figure 1C, operation 35; Figure 1C-1.) A first set of additional components and a second set of additional components are determined, where the first set is implemented before the second set can be implemented. (Page 17, fourth paragraph; Figure 1D, operation 36; Figure 1D-1.) The pictorial representation of the existing system is modified by indicia coding to show the first set of components being implemented in a first phase and the second set of components being implemented in a second phase. (Page 18,

second paragraph; Figure 1D, operations 38 and 39.) Indicia coding indicates that proper functioning of the second set of components requires the installation of the first set of components. (Page 18, second paragraph, Figure 1D, operation 39.)

Independent claim 7 is directed to a computer program embodied on a computer readable medium for displaying phases in which components are delivered to a system for providing a web architecture framework. (Figure 1A; Page 14, second paragraph; Figures 1Z-1A0; page 25, third paragraph.) A first code segment displays a pictorial representation showing components of the existing system. (Page 18, second paragraph; Figure 1D operation 37.) A second code segment identifies a first component group with additional components, which are required for implementation, and a second component group with optional components from the components. (Pages 16-17.) A third code segment compiles an ordered listing of additional components in an order for implementation in the existing system. (Page 17, second and third paragraphs; Figure 1C, operation 35; Figure 1C-1.) A fourth and fifth code segment determines a first set of additional components and a second set of additional components, where the first set is implemented before the second set can be implemented. (Page 17, fourth paragraph; Figure 1D, operation 36; Figure 1D-1.) A sixth and seventh code segment modify the pictorial representation of the existing system by indicia coding to show the first set of components being implemented in a first phase and the second set of components being implemented in a second phase. (Page 18, second paragraph; Figure 1D, operations 38 and 39.) The seventh code segment indicates that proper functioning of the second set of components requires the installation of the first set of components by indicia coding. (Page 18, second paragraph, Figure 1D, operation 39.)

Independent claim 13 is directed to an apparatus for displaying phases on a computer in which components of a system are provided for providing a web architecture framework. (Figure 1A; Page 14, second paragraph.) A pictorial representation showing components of the existing system is displayed. (Page 18, second paragraph; Figure 1D operation 37.) From the components, logic identifies a first component group with additional components, which are required for implementation, and a second component group with optional components. (Pages 16-17.) Logic compiles an ordered listing of additional components in an order for implementation in the existing system. (Page 17, second and third paragraphs; Figure 1C, operation 35; Figure 1C-1.) Logic then determines a first set of additional components and a second set of additional components, where the first set is implemented before the second set can be implemented. (Page 17, fourth paragraph; Figure 1D, operation 36; Figure 1D-1.) Logic modifies the pictorial representation of the existing by indicia coding to show the first set of components being implemented in a first phase and the second set of components being implemented in a second phase. (Page 18, second paragraph; Figure 1D, operations 38 and 39.) Logic indicates that proper functioning of the second set of components requires the installation of the first set of components with indicia coding. (Page 18, second paragraph, Figure 1D, operation 39.)

**VI. Grounds of Rejection to be Reviewed on Appeal**

Claims 1-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,937,743 (Rassman) in view of U.S. Patent No. 5,208,765 (Turnbull).



**VII. Argument**

The following claims stand or fall together in the ten indicated groups: (a) claims 1-6; (b) claims 7-12; (c) claims 13-18; and (d) claim 19.

**A. Claims 1-6 are patentable because the combination of Rassman and Turnbull fails to even suggest every feature.**

Rassman describes a method for scheduling, periodic monitoring, and dynamic management of interrelated and interdependent resources using a computer system with a display capability. Rassman provides an exemplary application of the invention for the monitoring and planning of surgical suite utilization. (Column 4, lines 36-57.) A primary database provides standard information about certain known activities or procedures. (Column 4, lines 58-65.) A supplemental data base stores information more frequently changed than the information stored in the primary data base. (Column 4, lines 66 – column 5, line 17.) As shown in Figure 1, usage of different resources, e.g., rooms, doctors, and other resources are displayed by time. (Column 5, line 51- column 6, line 18.) Certain resources can be selected for primary display purposes while secondary resources may or may not appear on the display. (Column 6, lines 19-38.) According to an example, operating rooms (O) may be displayed as primary resources while surgeons (S), anesthesiologists (A), heart/lung machines (H), and heart monitors (M) may be referred as secondary resources. (Column 6, lines 19-38.)

Turnbull describes a method and structure for monitoring product development. A product control matrix (e.g., matrix 100 as shown in Figure 1) has a plurality of stages, where each stage has associated requirements. (Column 3, lines 40-54.) A gate is a control mechanism for each stage that assures that all requirements for the corresponding stage are completed prior

to assigning a status. (Column 3, lines 55-63.) Status information follows each gate in a product control matrix.

The combination of Rassman and Turnbull fails to suggest the feature of "identifying, from the plurality of components, a first component group containing additional components and a second component group containing optional components, the additional components being required for an implementation of the system, the optional components being optional for the implementation of the system." An obviousness rejection under 35 U.S.C. § 103 is appropriate only when the differences between the claimed invention and the prior art "are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art." *In re Dembiczak*, 175 F.3d 994, 50 U.S.P.Q.2d 1614, 1616 (Fed. Cir. 1999); 35 U.S.C. § 103(a) (1999). The ultimate determination of whether an invention would have been obvious is a legal conclusion based on underlying factual inquiries including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed invention and the prior art; and (4) any objective evidence of non-obviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 U.S.P.Q. 459, 467 (1966).

As disclosed by Rassman (Column 6, lines 19-38. Emphasis added.):

While the operator of the system can select certain resources for primary display purposes, the system monitors utilization, not only of the displayed primary resources but also of other or secondary resources which may or may not appear on the display, but which are used in conjunction with the displayed primary resources. To illustrate, the operator may choose to display "operating rooms" as the primary resources. **One of those operating rooms, 0, however, may require surgeon S, anesthesiologist A, heart/lung machine H and heart monitor M. Resources S, A, H and M may be referred to as secondary resources.** If the procedure scheduled for room 0 takes longer than expected, the system will display conflicts, not only with respect to the primary resource, operating room 0, but also with respect to scheduled utilization of the secondary resources, surgeon

S, anesthesiologist A, heart/lung machine H and monitor M. The system can, of course, be so configured as to suppress one or more of these indicia.

Secondary resources S, A, H, M are necessary and are not optional. As disclosed above, Rassman teaches both primary and secondary resources being necessary for a task (i.e., to perform a medical procedure). Rassman does not even suggest that secondary resources are optional but are merely associated with primary resources. The Office Action alleges (Page 3.):

... (Col. 8, lines 61-8, lines 8-36, shows primary and secondary resources, which represent first and second component groups, respectively. Specifically col. 8, lines 15-20 shows that during the display of primary resources, the display of several pieces of data relating to secondary resources can be made (secondary pieces of data represent additional components). Also, specifically, in col. 8, lines 20-36, the implementation of an application where the display of secondary resources can be employed to make additional optional available, which represent the optional components); ...

Rassman discloses (Column 8, lines 29-36):

The display of secondary resources could also be employed to make additional options available. For example, instead of having to go through a menu, simply by moving the cursor to one of those displayed secondary resources, the system could be made to display a window with that secondary resource's schedule or other information about that secondary resource. Such a window is shown in FIG. 9.

Rassman merely discloses optional display functions for displaying a representation of a secondary resource, which is necessary for the medical procedure. Moreover, Turnbull merely discloses a division of a plurality of stages, in which each stage includes a set of requirements that must be completed in order for the stage to be completed. (Abstract.)

Claims 1-6 are patentable over Rassman in view of Turnbull. Thus, the rejections of claims 1-6 under 35 U.S.C. 103(a) should be reversed.

**B. Claims 1-6 are patentable because Turnbull fails to remedy the deficiencies of Rassman.**

Claim 1 includes the feature of "compiling, by the processor, an ordered listing of additional components for implementation into the existing system, the ordered listing providing

an order that is **required** for installing the components in the web architecture framework,” which is not even suggested by the combination of Rassman and Turnbull. The Office Action admits (Pages 6. Emphasis added.):

Rassman et al **fails** to specifically disclose an ordered list, the ordered listing providing an order that is required for installing the components in the web architecture framework, but does disclose the establishment of predetermined sequences, where it is necessary that one step be completed before the other as shown in col. 11, lines 19-24.

The Office Action alleges (Page 6.):

However, Turnbull discloses: an ordered listing providing an order that is required for installing the components in the web architecture framework...

Turnbull, for example, merely discloses (Column 8, line 45 – column 9, line 14. Emphasis added.):

One embodiment of product control matrix 400 for the six stages illustrated in FIG. 4 is presented in FIGS. 7A, 7B and 7C. This embodiment is the most complex because both a new product design, a new fabrication technology, and a new package design are all under development. Product control matrix 400 provides a novel means for expeditiously integrating all operations and functions associated with this complex development. In this embodiment, design stage 401-1 is divided into ten requirements, which are:

- 1) Process Qualification I;
- 2) Design Review;
- 3) Characterization I;
- 4) Test Plan;
- 5) Die Package Submission;
- 6) Packing Design;
- 7) Product Control Team;
- 8) Statistical Process Management I;
- 9) Product Performance Plan I; and
- 10) Product Qualification I.

Requirements 404-1 in design stage 401-1 not only completely document the requirements of the product design stage 401-1 but also assure initiation of all operations necessary for a smooth transition from design stage 401-1 through alert control stage 401-6. Each of requirements 404-1 in design stage 401-1 is explained more completely below. **The requirements are described as they appear in product control matrix**

**400. However, the requirements are not listed in either sequential or chronological order within control matrix 400.** To the extent possible, the requirements are performed in parallel, but obviously, as described below, some requirements within a stage must be completed before initiation of other requirements within this stage. One important aspect of requirements 404-1 is that upon successful completion of requirements 404-1, all the basic work has been completed for initiation of requirements 404-2 in engineering samples stage 401-2.

As disclosed by Turnbull, the order of requirements (which are alleged to be “components” by the Office Action) in the requirements listing is merely in the order of product control matrix 400 (e.g., as shown in fig. 7a) and not in sequential or chronological order. The requirements listing does not provide an order that is required for completing a stage because the requirements listing is not in sequential or chronological order, and thus Turnbull implies that another order may be executed to complete the stage. Moreover, some of the requirements may be performed in parallel. Although all the requirements in the requirements list need to be performed to complete the stage, Turnbull discloses that the ordering of requirements of product control matrix 400 is just one possible ordering. Although Turnbull may disclose an ordered list of necessary requirements for completing a stage, the ordered list is not required for completing the stage.

Claims 1-6 are patentable over Rassman in view Turnbull. Thus, the rejections of claims 1-6 under 35 U.S.C. 103(a) should be reversed.

**C. Claims 7-12 are patentable because the combination of Rassman and Turnbull fails to even suggest every feature.**

Rassman describes a method for scheduling, periodic monitoring, and dynamic management of interrelated and interdependent resources using a computer system with a display capability. Rassman provides an exemplary application of the invention for the monitoring and planning of surgical suite utilization. (Column 4, lines 36-57.) A primary database provides standard information about certain known activities or procedures. (Column 4, lines 58-65.) A supplemental data base stores information more frequently changed than the information stored

in the primary data base. (Column 4, lines 66 – column 5, line 17.) As shown in Figure 1, usage of different resources, e.g., rooms, doctors, and other resources are displayed by time. (Column 5, line 51- column 6, line 18.) Certain resources can be selected for primary display purposes while secondary resources may or may not appear on the display. (Column 6, lines 19-38.) According to an example, operating rooms (O) may be displayed as primary resources while surgeons (S), anesthesiologists (A), heart/lung machines (H), and heart monitors (M) may be referred as secondary resources. (Column 6, lines 19-38.)

Turnbull describes a method and structure for monitoring product development. A product control matrix (e.g., matrix 100 as shown in Figure 1) has a plurality of stages, where each stage has associated requirements. (Column 3, lines 40-54.) A gate is a control mechanism for each stage that assures that all requirements for the corresponding stage are completed prior to assigning a status. (Column 3, lines 55-63.) Status information follows each gate in a product control matrix.

The combination of Rassman and Turnbull fails to suggest the feature of “a code segment that identifies, from the plurality of components, a first component group containing additional components and a second component group containing optional components, the additional components being required for an implementation of the system, the optional components being optional for the implementation of the system.” An obviousness rejection under 35 U.S.C. § 103 is appropriate only when the differences between the claimed invention and the prior art “are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art.” *In re Dembiczak*, 175 F.3d 994, 50 U.S.P.Q.2d 1614, 1616 (Fed. Cir. 1999); 35 U.S.C. § 103(a) (1999). The ultimate determination of whether an invention would have been obvious is a legal conclusion based on underlying factual inquiries

including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed invention and the prior art; and (4) any objective evidence of non-obviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 U.S.P.Q. 459, 467 (1966).

As disclosed by Rassman (Column 6, lines 19-38. Emphasis added.):

While the operator of the system can select certain resources for primary display purposes, the system monitors utilization, not only of the displayed primary resources but also of other or secondary resources which may or may not appear on the display, but which are used in conjunction with the displayed primary resources. To illustrate, the operator may choose to display "operating rooms" as the primary resources. **One of those operating rooms, 0, however, may require surgeon S, anesthesiologist A, heart/lung machine H and heart monitor M. Resources S, A, H and M may be referred to as secondary resources.** If the procedure scheduled for room 0 takes longer than expected, the system will display conflicts, not only with respect to the primary resource, operating room 0, but also with respect to scheduled utilization of the secondary resources, surgeon S, anesthesiologist A, heart/lung machine H and monitor M. The system can, of course, be so configured as to suppress one or more of these indicia.

Secondary resources S, A, H, M are necessary and are not optional. As disclosed above, Rassman teaches both primary and secondary resources being necessary for a task (i.e., to perform a medical procedure). Rassman does not even suggest that secondary resources are optional but are merely associated with primary resources. The Office Action alleges (Page 3.):

... (Col. 8, lines 61-8, lines 8-36, shows primary and secondary resources, which represent first and second component groups, respectively. Specifically col. 8, lines 15-20 shows that during the display of primary resources, the display of several pieces of data relating to secondary resources can be made (secondary pieces of data represent additional components). Also, specifically, in col. 8, lines 20-36, the implementation of an application where the display of secondary resources can be employed to make additional optional available, which represent the optional components); ...

Rassman discloses (Column 8, lines 29-36):

The display of secondary resources could also be employed to make additional options available. For example, instead of having to go through a menu, simply by moving the cursor to one of those displayed secondary resources, the system could be made to display a window with that secondary resource's schedule or

other information about that secondary resource. Such a window is shown in FIG. 9.

Rassman merely discloses optional display functions for displaying a representation of a secondary resource, which is necessary for the medical procedure. Moreover, Turnbull merely discloses a division of a plurality of stages, in which each stage includes a set of requirements that must be completed in order for the stage to be completed. (Abstract.)

Claims 7-12 are patentable over Rassman in view Turnbull. Thus, the rejections of claims 7-12 under 35 U.S.C. 103(a) should be reversed.

**D. Claims 7-12 are patentable because Turnbull fails to remedy the deficiencies of Rassman.**

Independent claim 7 includes the feature of “a code segment that compiles an ordered listing of the additional components for implementation into the existing system, the ordered listing providing an order that is required for installing the components in the web architecture framework,” which is not even suggested by the combination of Rassman and Turnbull. The Office Action admits (Pages 6. Emphasis added.):

Rassman et al **fails** to specifically disclose an ordered list, the ordered listing providing an order that is required for installing the components in the web architecture framework, but does disclose the establishment of predetermined sequences, where it is necessary that one step be completed before the other as shown in col. 11, lines 19-24.

The Office Action alleges (Page 6.):

However, Turnbull discloses: an ordered listing providing an order that is required for installing the components in the web architecture framework...

Turnbull, for example, merely discloses (Column 8, line 45 – column 9, line 14. Emphasis added.):

One embodiment of product control matrix 400 for the six stages illustrated in FIG. 4 is presented in FIGS. 7A, 7B and 7C. This embodiment is the most complex because both a new product design, a new fabrication technology, and a new package design are all under



development. Product control matrix 400 provides a novel means for expeditiously integrating all operations and functions associated with this complex development. In this embodiment, design stage 401-1 is divided into ten requirements, which are:

- 1) Process Qualification I;
- 2) Design Review;
- 3) Characterization I;
- 4) Test Plan;
- 5) Die Package Submission;
- 6) Packing Design;
- 7) Product Control Team;
- 8) Statistical Process Management I;
- 9) Product Performance Plan I; and
- 10) Product Qualification I.

Requirements 404-1 in design stage 401-1 not only completely document the requirements of the product design stage 401-1 but also assure initiation of all operations necessary for a smooth transition from design stage 401-1 through alert control stage 401-6. Each of requirements 404-1 in design stage 401-1 is explained more completely below. **The requirements are described as they appear in product control matrix 400. However, the requirements are not listed in either sequential or chronological order within control matrix 400.** To the extent possible, the requirements are performed in parallel, but obviously, as described below, some requirements within a stage must be completed before initiation of other requirements within this stage. One important aspect of requirements 404-1 is that upon successful completion of requirements 404-1, all the basic work has been completed for initiation of requirements 404-2 in engineering samples stage 401-2.

As disclosed by Turnbull, the order of requirements (which are alleged to be “components” by the Office Action) in the requirements listing is merely in the order of product control matrix 400 (e.g., as shown in fig. 7a) and not in sequential or chronological order. The requirements listing does not provide an order that is required for completing a stage because the requirements listing is not in sequential or chronological order, and thus Turnbull implies that another order may be executed to complete the stage. Moreover, some of the requirements may be performed in parallel. Although all the requirements in the requirements list need to be performed to complete the stage, Turnbull discloses that the ordering of requirements of product control matrix 400 is

just one possible ordering. Although Turnbull may disclose an ordered list of necessary requirements for completing a stage, the ordered list is not required for completing the stage.

Claims 7-12 are patentable over Rassman in view Turnbull. Thus, the rejections of claims 7-12 under 35 U.S.C. 103(a) should be reversed.

**E. Claims 13-18 are patentable because the combination of Rassman and Turnbull fails to even suggest every feature.**

Rassman describes a method for scheduling, periodic monitoring, and dynamic management of interrelated and interdependent resources using a computer system with a display capability. Rassman provides an exemplary application of the invention for the monitoring and planning of surgical suite utilization. (Column 4, lines 36-57.) A primary database provides standard information about certain known activities or procedures. (Column 4, lines 58-65.) A supplemental data base stores information more frequently changed than the information stored in the primary data base. (Column 4, lines 66 – column 5, line 17.) As shown in Figure 1, usage of different resources, e.g., rooms, doctors, and other resources are displayed by time. (Column 5, line 51- column 6, line 18.) Certain resources can be selected for primary display purposes while secondary resources may or may not appear on the display. (Column 6, lines 19-38.) With a provided example, operating rooms (O) may be displayed as primary resources while surgeons (S), anesthesiologists (A), heart/lung machines (H), and heart monitors (M) may be referred as secondary resources. (Column 6, lines 19-38.)

Turnbull describes a method and structure for monitoring product development. A product control matrix (e.g., matrix 100 as shown in Figure 1) has a plurality of stages, where each stage has associated requirements. (Column 3, lines 40-54.) A gate is a control mechanism for each stage that assures that all requirements for the corresponding stage are completed prior

to assigning a status. (Column 3, lines 55-63.) Status information follows each gate in a product control matrix.

The combination of Rassman and Turnbull fails to suggest the feature of "logic for identifying, from the plurality of components, a first component group containing additional components and a second component group containing optional components, the additional components being required for an implementation of the system, the optional components being optional for the implementation of the system." An obviousness rejection under 35 U.S.C. § 103 is appropriate only when the differences between the claimed invention and the prior art "are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art." *In re Dembiczak*, 175 F.3d 994, 50 U.S.P.Q.2d 1614, 1616 (Fed. Cir. 1999); 35 U.S.C. § 103(a) (1999). The ultimate determination of whether an invention would have been obvious is a legal conclusion based on underlying factual inquiries including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed invention and the prior art; and (4) any objective evidence of non-obviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 U.S.P.Q. 459, 467 (1966).

As disclosed by Rassman (Column 6, lines 19-38. Emphasis added.):

While the operator of the system can select certain resources for primary display purposes, the system monitors utilization, not only of the displayed primary resources but also of other or secondary resources which may or may not appear on the display, but which are used in conjunction with the displayed primary resources. To illustrate, the operator may choose to display "operating rooms" as the primary resources. **One of those operating rooms, 0, however, may require surgeon S, anesthesiologist A, heart/lung machine H and heart monitor M. Resources S, A, H and M may be referred to as secondary resources.** If the procedure scheduled for room 0 takes longer than expected, the system will display conflicts, not only with respect to the primary resource, operating room 0, but also with respect to scheduled utilization of the secondary resources, surgeon

S, anesthesiologist A, heart/lung machine H and monitor M. The system can, of course, be so configured as to suppress one or more of these indicia.

Secondary resources S, A, H, M are necessary and are not optional. As disclosed above, Rassman teaches both primary and secondary resources being necessary for a task (i.e., a medical procedure). Rassman does not even suggest that secondary resources are optional but are merely associated with primary resources. The Office Action alleges (Page 3.):

... (Col. 8, lines 61-8, lines 8-36, shows primary and secondary resources, which represent first and second component groups, respectively. Specifically col. 8, lines 15-20 shows that during the display of primary resources, the display of several pieces of data relating to secondary resources can be made (secondary pieces of data represent additional components). Also, specifically, in col. 8, lines 20-36, the implementation of an application where the display of secondary resources can be employed to make additional optional available, which represent the optional components); ...

Rassman discloses (Column 8, lines 29-36):

The display of secondary resources could also be employed to make additional options available. For example, instead of having to go through a menu, simply by moving the cursor to one of those displayed secondary resources, the system could be made to display a window with that secondary resource's schedule or other information about that secondary resource. Such a window is shown in FIG. 9.

Rassman merely discloses optional display functions for displaying a representation of a secondary resource, which is necessary for the medical procedure. Moreover, Turnbull merely discloses a division of a plurality of stages, in which each stage includes a set of requirements that must be completed in order for the stage to be completed. (Abstract.)

Claims 13-18 are patentable over Rassman in view of Turnbull. Thus, the rejections of claims 13-18 under 35 U.S.C. 103(a) should be reversed.

**F. Claims 13-18 are patentable because Turnbull fails to remedy the deficiencies of Rassman.**

Claim 13 includes the feature of "logic for compiling an ordered listing of the additional components for implementation into the existing system, the ordered listing providing an order

that is required for installing the components in the web architecture framework,” which is not even suggested by the combination of Rassman and Turnbull. The Office Action admits (Pages 6. Emphasis added.):

Rassman et al **fails** to specifically disclose an ordered list, the ordered listing providing an order that is required for installing the components in the web architecture framework, but does disclose the establishment of predetermined sequences, where it is necessary that one step be completed before the other as shown in col. 11, lines 19-24.

The Office Action alleges (Page 6.):

However, Turnbull discloses: an ordered listing providing an order that is required for installing the components in the web architecture framework...

Turnbull, for example, merely discloses (Column 8, line 45 – column 9, line 14. Emphasis added.):

One embodiment of product control matrix 400 for the six stages illustrated in FIG. 4 is presented in FIGS. 7A, 7B and 7C. This embodiment is the most complex because both a new product design, a new fabrication technology, and a new package design are all under development. Product control matrix 400 provides a novel means for expeditiously integrating all operations and functions associated with this complex development. In this embodiment, design stage 401-1 is divided into ten requirements, which are:

- 1) Process Qualification I;
- 2) Design Review;
- 3) Characterization I;
- 4) Test Plan;
- 5) Die Package Submission;
- 6) Packing Design;
- 7) Product Control Team;
- 8) Statistical Process Management I;
- 9) Product Performance Plan I; and
- 10) Product Qualification I.

Requirements 404-1 in design stage 401-1 not only completely document the requirements of the product design stage 401-1 but also assure initiation of all operations necessary for a smooth transition from design stage 401-1 through alert control stage 401-6. Each of requirements 404-1 in design stage 401-1 is explained more completely below. **The requirements are described as they appear in product control matrix**

**400. However, the requirements are not listed in either sequential or chronological order within control matrix 400.** To the extent possible, the requirements are performed in parallel, but obviously, as described below, some requirements within a stage must be completed before initiation of other requirements within this stage. One important aspect of requirements 404-1 is that upon successful completion of requirements 404-1, all the basic work has been completed for initiation of requirements 404-2 in engineering samples stage 401-2.

As disclosed by Turnbull, the order of requirements (which are alleged to be “components” by the Office Action) in the requirements listing is merely in the order of product control matrix 400 (e.g., as shown in fig. 7a) and not in sequential or chronological order. The requirements listing does not provide an order that is required for completing a stage because the requirements listing is not in sequential or chronological order, and thus Turnbull implies that another order may be executed to complete the stage. Moreover, some of the requirements may be performed in parallel. Although all the requirements in the requirements list need to be performed to complete the stage, Turnbull discloses that the ordering of requirements of product control matrix 400 is just one possible ordering. Although Turnbull may disclose an ordered list of necessary requirements for completing a stage, the ordered list is not required for completing the stage.

Claims 13-18 are patentable over Rassman in view Turnbull. Thus, the rejections of claims 13-18 under 35 U.S.C. 103(a) should be reversed.

**G. Claim 19 is patentable because the combination of Rassman and Turnbull fails to even suggest every feature.**

The combination of Rassman and Turnbull fails to suggest the feature of “separating the remaining components into primary components and secondary components, wherein the primary components must be installed before the secondary components can function properly.”

The Final Office Action alleges (Page 9):

In response to (d), determining remaining components (Col. 7, lines 55-57, where it shows that the remaining operating rooms could be scheduled in a similar fashion as the first set of operating rooms in “Case abc”]0;...

Referring to the teachings of Rassman, the Office Action alleges that the remaining operating rooms function as remaining components as claimed in claim 19. Rassman fails to suggest separating operating rooms into primary and secondary components. Furthermore, Rassman fails to suggest even a prioritization of operating rooms, in which a first operating room must be scheduled before a second operating room can be scheduled. For example, referring to Figure 1 in Rassman, there is no suggestion that one of the remaining operating rooms (e.g., Rm 2) must be scheduled before being able to schedule the other remaining operating room (e.g., Rm 3). Moreover, Turnbull fails to remedy the deficiencies of Rassman.

The combination of Rassman and Turnbull does not suggest the feature of claim 19, and thus the rejection of claim 19 under 35 U.S.C. 103 (a) should be reversed.

### **Conclusion**

The rejections of claims 1-19 contained in the Final Office Action of September 21, 2006 should be reversed for at least the reasons recited above. Reversal of the rejections is requested.

Respectfully Submitted,

Banner & Witcoff, LTD

Date: April 3, 2007

By: 

Kenneth F. Smolik  
Registration No. 44,344  
Banner & Witcoff, Ltd.  
10 South Wacker Drive  
Suite 3000  
Chicago, Illinois 60606  
Telephone: 312-463-5000  
Facsimile: 312-463-5001

## **CLAIMS APPENDIX**

1. A method for displaying phases on a computer system in which components of a system for providing a web architecture framework are delivered, wherein all steps are performed on the computer, the method comprising the steps of:

(a) displaying, through a display adapter by a processor, a pictorial representation of an existing system including a plurality of components;

(b) identifying, from the plurality of components, a first component group containing additional components and a second component group containing optional components, the additional components being required for an implementation of the system, the optional components being optional for the implementation of the system;

(c) compiling, by the processor, an ordered listing of the additional components for implementation into the existing system, the ordered listing providing an order that is required for installing the components in the web architecture framework;

(d) determining, by the processor, a first set of the additional components for implementation in a first implementation phase;

(e) determining, by the processor, a second set of the additional components for implementation in a second implementation phase, the first set being implemented before the second set can be implemented;

(f) modifying, through the display adapter by the processor, the pictorial representation of the existing system to show a pictorial representation of the first set of components being indicia coded to indicate that they are to be delivered in the first phase; and

(g) modifying, through the display adapter by the processor, the pictorial representation of the existing system to show a pictorial representation of the second set of components being indicia coded in a manner unique with respect to the indicia coding of the first set of components to indicate that the second set of components is to be delivered in the second phase and that a proper functioning



of the second set of components require an installation of the first set of components in the first phase.

2. A method for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 1, wherein a legend is presented which defines the indicia coding with respect to the phases of delivery of the components.

3. A method for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 1, wherein the components of the existing system are selected from the group of components including security services, network services, web services, client services, integration capabilities, data services, directory services, management services, operation services, and developer services.

4. A method for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 1, wherein the components of the existing system are selected from the group of components including commerce-related services, content-related services, administration-related services, customer-related services, and education-related services.

5. A method for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 1, wherein the indicia coding is selected from the group of indicia coding including texture coding, color coding, and shading coding.

6. A method for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 1, wherein the step of displaying a pictorial representation of an existing system including a plurality of components also includes displaying additional components that may be implemented into the system.

7. A computer program embodied on a computer readable medium for displaying phases in which components of a system for providing a web architecture framework are delivered comprising:

(a) a code segment that displays a pictorial representation of an existing system including a plurality of components;

(b) a code segment that identifies, from the plurality of components, a first component group containing additional components and a second component group containing optional components, the additional components being required for an implementation of the system, the optional components being optional for the implementation of the system;

(c) a code segment that compiles an ordered listing of the additional components for implementation into the existing system, the ordered listing providing an order that is required for installing the components in the web architecture framework;

(d) a code segment that determines a first set of the additional components for implementation in a first implementation phase;

(e) a code segment that determines a second set of additional components for implementation in a second implementation phase, the first set being implemented before the second set can be implemented;

(f) a code segment that modifies the pictorial representation of the existing system to show a pictorial representation of the first set of components being indicia coded to indicate that they are to be delivered in the first phase; and

(g) a code segment that modifies the pictorial representation of the existing system to show a pictorial representation of the second set of components being indicia coded in a manner unique with respect to the indicia coding of the first set of components to indicate that the second set of components is to be delivered in the second phase and that a proper functioning of the second set of components require an installation of the first set of components in the first phase.

8. A computer program for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 7,

wherein a legend is presented which defines the indicia coding with respect to the phases of delivery of the components.

9. A computer program for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 7, wherein the components of the existing system are selected from the group of components including security services, network services, web services, client services, integration capabilities, data services, directory services, management services, operation services, and developer services.

10. A computer program for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 7, wherein the components of the existing system are selected from the group of components including commerce-related services, content related services, administration-related services, customer-related services, and education-related services.

11. A computer program for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 7, wherein the indicia coding is selected from the group of indicia coding including texture coding, color coding, and shading coding.

12. A computer program for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 7, wherein the step of displaying a pictorial representation of an existing system including a plurality of components also includes displaying additional components that may be implemented into the system.

13. An apparatus for displaying phases on a computer in which components of a system for providing a web architecture framework are delivered comprising:

- (a) logic for displaying a pictorial representation of an existing system including a plurality of components;
- (b) logic for identifying, from the plurality of components, a first component group containing additional components and a second component group containing optional components, the additional components being required

for an implementation of the system, the optional components being optional for the implementation of the system;

(c) logic for compiling an ordered listing of the additional components for implementation into the existing system, the ordered listing providing an order that is required for installing the components in the web architecture framework;

(d) logic for determining a first set of the additional components for implementation in a first implementation phase;

(e) logic for determining a second set of additional components for implementation in a second implementation phase, the first set being implemented before the second set can be implemented;

(f) logic for modifying the pictorial representation of the existing system to show a pictorial representation of the first set of components being indicia coded to indicate that they are to be delivered in the first phase;

(g) logic for modifying the pictorial representation of the existing system to show a pictorial representation of the second set of components being indicia coded in a manner unique with respect to the indicia coding of the first set of components to indicate that the second set of components is to be delivered in a second phase and that a proper functioning of the second set of components require an installation of the first set of components in the first phase; and

(h) a processor that executes computer-executable instructions for performing the logic in (a)-(f).

14. The apparatus of claim 13, wherein a legend is presented which defines the indicia coding with respect to the phases of delivery of the components.

15. The apparatus of claim 13, wherein the components of the existing system are selected from the group of components including security services, network services, web services, client services, integration capabilities, data services, directory services, management services, operation services, and developer services.

16. The apparatus of claim 13, wherein the components of the existing system are selected from the group of components including commerce-related services, content-

related services, administration-related services, customer-related services, and education-related services.

17. The apparatus of claim 13, wherein the indicia coding is selected from the group of indicia coding including texture coding, color coding, and shading coding.

18. The apparatus of claim 13, wherein the step of displaying a pictorial representation of an existing system including a plurality of components also includes displaying additional components that may be implemented into the system.

19. The method of claim 1, further comprising:

(h) in response to (d), determining remaining components;

(i) separating the remaining components into primary components and secondary components, wherein the primary components must be installed before the secondary components can function properly;

(j) including the primary components in the first set of additional components; and

(k) including the secondary components in the second set of components.

**EVIDENCE APPENDIX**

-NONE-

**RELATED PROCEEDINGS APPENDIX**

-NONE-